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9 UNITED STATES DISTRICT COURT  
10 NORTHERN DISTRICT OF CALIFORNIA  
11 SAN FRANCISCO DIVISION  
12

13 UNITED STATES OF AMERICA,

14 Plaintiff,

15 v.

16 JULIO CESAR VIERA-CHIRINOS,  
a/k/a "Chino,"

17 Defendant.  
18

CASE NO.: CR 19-367 CRB EDL-4

[PROPOSED] ORDER DETAINING DEFENDANT  
JULIO CESAR VIERA-CHIRINOS PRIOR TO  
TRIAL

19  
20 On July 30, 2019, defendant Julio Cesar Viera-Chirinos was charged in a criminal complaint  
21 with distribution of controlled substances in violation of 21 U.S.C. § 841(a)(1) and (b)(1)(C). *See* Case  
22 No. 19-71156 TSH. On August 8, 2019, a grand jury returned an indictment charging Mr. Viera-  
23 Chirinos with the same offense. *See* Case No. 19-367 CRB. The defendant was arraigned on August  
24 19, 2019, and on the same day the matter came before this Court for a detention hearing. The defendant  
25 was present and represented by Karen McConville, Esq.

26 Pretrial Services submitted a report that recommended detention based on risk of flight. A  
27 representative of Pretrial Services was also present at the hearing. The Government moved for  
28 detention, and the defendant opposed. The parties submitted proffers and arguments.

[PROPOSED] ORDER DETAINING DEFENDANT JULIO CESAR VIERA-CHIRINOS PRIOR TO TRIAL  
CR 19-367 WHA EDL-4

1 Upon consideration of the Pretrial Services report, the court file, and the parties' proffers at the  
2 detention hearing, the Court finds by a preponderance of the evidence that, at least at this time, there is  
3 no condition or combination of conditions that will reasonably assure the appearance of the defendant as  
4 required. Accordingly, the Court orders the defendant detained pending trial.

5 This Order supplements the Court's findings at the detention hearing and serves as written  
6 findings of fact and statement of reasons as required by Title 18, United States Code, Section 3142(i).

7 The Bail Reform Act of 1984 sets forth the factors the Court must consider in determining  
8 whether pretrial detention is warranted. In coming to its decision, the Court has considered those  
9 factors, paraphrased below:

- 10 (1) the nature and seriousness of the offense charged;
- 11 (2) the weight of the evidence against the person;
- 12 (3) the history and characteristics of the person including, among other considerations,
- 13 employment, past conduct and criminal history, and record of court appearances; and
- 14 (4) the nature and seriousness of the danger to any person or the community that would be posed
- 15 by the person's release.

16 18 U.S.C. § 3142(g).

17 In considering the Pretrial Services report, the court file, and the party proffers presented at the  
18 hearing, the Court finds the following factors among the most compelling in reaching its conclusion that  
19 no combination of conditions can reasonably assure the defendant's appearance as required.

20 First, Mr. Viera-Chirinos has very strong connections to Honduras. His two minor children and  
21 those children's mother, with whom Mr. Viera-Chirinos said he was in a romantic relationship, still live  
22 there. Mr. Viera-Chirinos's parents also live in Honduras, and he told Pretrial Services that he speaks  
23 with them frequently. Mr. Viera-Chirinos also has a valid Honduran passport.

24 By contrast, Mr. Viera-Chirinos does not have strong ties to the United States. He has been in  
25 the country without authorization for about four years. He has no employment history or assets. He  
26 listed no family in the United States other than his co-defendants in this case.

27 Additionally, the government presented evidence to suggest that the defendant made  
28 misrepresentations to Pretrial Services about his connections to this district. For example, the defendant

1 told Pretrial Services that he had been living with his brother “Jorge” in a residence on McArthur  
2 Boulevard in Oakland for about a year, up until about a week prior to his arrest. The government  
3 proffered that “Jorge” is Mr. Viera-Chirinos’s brother and co-defendant Jorge Alberto Viera-Chirinos,  
4 and that the DEA’s investigation has shown that Jorge was living in San Jose prior to his arrest, not in  
5 Oakland. The government also proffered that the residence on McArthur Boulevard is a “redistributor  
6 house” that the drug-trafficking organization (DTO) alleged to be headed by Mr. Viera-Chirinos’s  
7 brother and co-defendant Eduardo Viera-Chirinos (“Eduardo”) used to house street-level drug dealers  
8 working for the DTO.

9 As another example, Mr. Viera-Chirinos told Pretrial Services that he had not been in touch with  
10 Eduardo and another brother Victor (also a co-defendant in this case) for some time, but the government  
11 proffered that intercepted calls over Victor’s and Eduardo’s phones, as well as over a phone used by  
12 Jorge Enrique Torres-Viera (“Enrique”), show that in late July 2019, in the days leading up to Mr.  
13 Viera-Chirinos’s arrest, Eduardo, Victor, and Enrique were discussing obtaining “work,” a code word  
14 for drugs, from “Chino,” which is the defendant’s moniker. The government further proffered that the  
15 intercepted calls showed that, contrary to his representations to Pretrial Services, Mr. Viera-Chirinos had  
16 spoken directly to these co-defendants as recently as July 2019, and that on some of those calls he  
17 appeared to be discussing receiving more than \$10,000 in connection with a suspected drug transaction.

18 The Court is also concerned that the defendant has no viable sureties. Mr. Viera-Chirinos’s  
19 girlfriend offered to sign an unsecured bond; however, the proposed surety is not in the country legally,  
20 has no assets with which to secure a bond, and has an income of \$1500 per month, making her  
21 effectively judgment-proof if the defendant were to flee.

22 Mr. Viera-Chirinos’s lack of viable sureties is particularly concerning in light of evidence  
23 proffered by the government that Mr. Viera-Chirinos was engaged in drug distribution while on  
24 probation from a state offense, which suggests that the defendant cannot be trusted to abide by court  
25 orders or to refrain from committing new crimes if released.

26 Given the nature of the crimes as alleged, as well as the history and characteristics of the  
27 defendant, the Court determines that, on the record before it, there is no condition or combination of  
28

1 conditions of release that can reasonably assure the defendant's appearance as required. Accordingly,  
2 pursuant to 18 U.S.C. § 3142(i), IT IS HEREBY ORDERED THAT:

3 (1) Defendant is committed to the custody of the Attorney General for confinement in a  
4 corrections facility;

5 (2) Defendant be afforded reasonable opportunity for private consultation with his counsel; and

6 (3) on order of a court of the United States or on request of an attorney for the government, the  
7 person in charge of the corrections facility in which Defendant is confined shall deliver Defendant to an  
8 authorized Deputy United States Marshal for the purpose of any appearance in connection with a court  
9 proceeding.

10 **IT IS SO ORDERED.**

11 August 3, 2019

12 Sept

  
HON. ELIZABETH D. LAPORTE  
United States Magistrate Judge